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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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TED R. RITTMASER
FOLEY & LARDNER
2029 CENTURY PARK EAST, SUITE 3500
LOS ANGELES,, CA 90067-3021

EXAMINER

ROBINSON, DANIEL LEON

ART UNIT PAPER NUMBER

3742

DATE MAILED: 12/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/768,035

Applicant(s)

LEBEL ET AL.

Examiner

Daniel I. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 17-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-16 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin et al.(U.S.Pat.5,752,976) in view of Pollack(U.S.Pat.4,854,328). Duffin discloses a world wide patient location and data telemetry system for implantable medical devices that shows many of the feature of the claimed invention but fails to explicitly show an identifier associated with a message, a general interrogation signal or an electrode to stimulate a portion of a body. Pollack discloses an animal monitoring telltale and information system that shows a genral interrogation signal, an identifier, and an electrode to stimulate the body. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to incorporate these features into the device of Duffin because the general interrogation signal can locate a lost body, a stimulating electrode can cause a visual reply and the identifier provides discrete communications.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Duffin reference as applied to claims 1-4, 9, and 16 above, and further in view of Schhulman et al.(U.S.Pat.6,208,894). The modified Duffin reference does not show a redundancy code. Schulman discloses a system of implantable devices for monitoring and/or affecting doby

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parameters that shows using a redundancy code. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a redundancy code as taught by Schulman because the redundancy results in greater confidence in received data.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Duffin reference as applied to claims 1-4, 9, and 16 above, and further in view of Fletcher (U.S.Pat.3,910,257). The modified Duffin reference does not explicitly show a synchronous system. Duffin discloses a world wide patient location and data telemetry system for implantable medical devices such as infusion pumps that shows all the features of the claimed invention save explicitly synchronizing the times. Fletcher discloses a medical subject monitoring system that explicitly shows a synchronized system. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to synchronize the elements of the remote system so corrective action can occur at an optimum time.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Duffin reference as applied to claims 1-4, 9, and 16 above, and further in view of Mann et al. (U.S.Pat.6,554,798). The modified Duffin reference does not explicitly show an infusion pump for dispensing insulin used with a glucose sensor. Mann discloses an infusion device with remote programming, bolus estimator and/or vibration alarm that shows infusing insulin and a glucose detector. It would have been obvious to one of ordinary skill in the art to use an infusion pump with a glucose detector as taught by Mann because the infusion can infuse insulin into a body based on a detected glucose level.

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Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schulman, Besson, Bowers and Reuss are cited to show structure and methods similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Robinson whose telephone number is 703 306-9043.

The examiner can normally be reached on M-F 5:30am-2:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0861.

DANIEL ROBINSON
PATENT EXAMINER
